

**IN THE MISSOURI COURT OF APPEALS
SOUTHERN DISTRICT**

**STATE OF MISSOURI, Ex rel,
MISSOURI STATE HIGH SCHOOL
ACTIVITIES ASSOCIATION,
By JENNIFER RUKSTAD, the duly
Acting Executive Director, and MARK
LINNEMAN, TRAVIS DITTEMORE,
DANIEL CLEMENS, KEVIN SMITH, JOSH
HOENER, CRAIG GIBBS, DAVID JONES,
HEATHER HELSEL AND AARON VITT,
members of the duly elected Board of Directors
of the Missouri State High School Activities
Association, a voluntary not-for-profit
unincorporated association of Missouri
secondary schools,**

Relators,

v.

**HONORABLE DEREK A. ANKROM,
and
The Circuit Court of Greene County, Missouri
Thirty-First Judicial Circuit,**

Respondents.

Case No.:

**[Circuit Court of Greene County,
Mo. Case No.: 2331-CC00841]**

**PETITION FOR IMMEDIATE STOP ORDER, PRELIMINARY
AND FINAL ORDER IN PROHIBITION AND/OR MANDAMUS**

COME NOW Relators Missouri State High School Activities Association by and through Jennifer Rukstad, the duly acting Executive Director, and Mark Linneman, Travis Dittemore, Daniel Clemens, Kevin Smith, Josh Hoener, Craig Gibbs, David Jones, Heather Helsel and Aaron Vitt, members of the duly elected and acting Board of Directors of the Missouri State High School Activities Association (hereinafter referred to as "Relators"), all by and through Mallory V. Mayse, their attorney of record, in support of this Petition for an Immediate Stop Order, Preliminary and Final Order in Prohibition and/or Mandamus who respectfully seek extraordinary and urgent relief from this Court as follows:

THE PARTIES

1. Relator Jennifer Rukstad is the current Executive Director of the Missouri State High School Activities Association (hereinafter referred to as "MSHSAA"), and Relators Mark Linneman, Travis Dittmore, Daniel Clemens, Kevin Smith, Josh Hoener, Craig Gibbs, David Jones, Heather Helsel and Aaron Vitt, members of the duly elected and acting Board of Directors for the Missouri State High School Activities Association (all hereafter referred to as the "Association" or "MSHSAA" or "Relators"), One North Keene Street, Columbia, Missouri.

2. MSHSAA is an unincorporated voluntary association of Missouri secondary schools and has been recognized as such by several Missouri Supreme Court and Appellate Court decisions, to wit: Art Gaines Baseball Camp, Inc. v. Houston, 500 S.W.2d 735 (Mo. App. 1973), in State ex rel., Missouri State High School Activities Association v. Fred E. Schoenlaub, Judge 507 S.W.2d 354 (Sup. Ct. En Banc 1974), in Timothy Guelker v. William D. Evans, 602 S.W.2d 756 (Mo. App. 1980), State ex rel., Missouri State High School Activities Association v. Ruddy, Judge, 643 S.W.2d 596 (Sup. Ct. En Banc 1983), State Ex Rel Missouri State High School Activities Association v. Romines, 37 SW3d 421 at 422 (Mo. App. E.D. 2001) and Letendre Ex Rel. V. Missouri State High School Activities Association, 86 SW3d 63 (Mo.App. E.D. 2002).

URGENCY OF THIS MATTER AND THE HARM TO RELATORS AND OTHERS

3. This matter is extremely urgent requiring the prompt intervention of this Court for the following reasons:

A. Relators are named Defendants in a civil lawsuit for Injunctive Relief filed by Plaintiff Kylan Mabins in the Circuit Court of Greene County, Missouri in Case No.: 2331-CC00841, wherein Respondent Derek A. Ankrom, Circuit Court Judge, issued a

Preliminary Injunction on September 22, 2023, enjoining Relators from treating Plaintiff as “ineligible” and taking any action on Plaintiff’s eligibility.

B. Plaintiff currently attends Glendale High School where he seeks to participate in the interscholastic sport of football. The remaining schedule for Glendale High School in the remaining season for Class 5 Missouri high school football is described as follows:

<u>Opponent/Game</u>	<u>Date</u>	<u>Site/Location</u>
Kickapoo	10/13	Kickapoo HS
Camdenton	10/20	Glendale HS
District First Round	10/27 or 10/28	TBA
District Second Round	11/3 or 11/4	TBA
District Championship	11/10 or 11/11	TBA
State Quarterfinal	11/17 or 11/18	TBA
State Semifinal	11/24 or 11/25	TBA
Show-Me Bowl	12/1	Faurot Field at Memorial Stadium, Columbia

C. The ability of the MSHSAA Board of Directors to exercise its delegated authority to uphold the MSHSAA Constitution and By-Laws is being seriously weakened and undermined by the Respondent’s action. MSHSAA By-Law 3.10.4 provides that students who “transfer schools”...are **ineligible for 365 days** unless their cases meet the standards under exceptions that follow.

D. Utilization of Plaintiff as an ineligible transfer student from Kickapoo High School would give Glendale High School an unfair competitive advantage against other member schools utilizing "eligible" students against whom it will compete on the date and in the events described above.

E. Schools eliminated by Glendale High School in the Class 5 football regular season and post season contests may file protests contesting the results of their games with Glendale High School which would seriously disrupt and confuse the 2023 MSHSAA State Football post season statewide championships.

F. The inability of Relators to obtain relief in this Court will motivate and encourage other students similarly situated to seek similar injunctions to thwart the Relators in upholding the MSHSAA Constitution and By-Laws which could seriously disrupt administration of the Association and affect equality of competition and fairness statewide and in the future.

STATEMENT OF FACTS

4. This case involves a transfer of schools on March 20, 2023, by the Plaintiff, Kylan Mabins (hereinafter referred to as the "Plaintiff") from Kickapoo High School (hereinafter referred to as "Kickapoo") to Glendale High School (hereinafter referred to as "Glendale") in Springfield, Missouri. There was no change of residence by the family of Plaintiff from their home in Springfield, Missouri, and Plaintiff's sister was not removed nor transferred from Kickapoo where Plaintiff alleges a toxic racial environment existed.

5. On April 14, 2023, following this transfer of schools by Plaintiff, a MSHSAA Transfer Form was initiated by Glendale and forwarded to Kickapoo for response.

6. Plaintiff's transfer request alleged a "hardship" that made the transfer "necessary," due to "unavoidable, unusual or unforeseen" circumstances.

7. The Athletic Director at Kickapoo High school, received the Transfer Form on April 14, 2023 and completed the transfer form as required by MSHSAA by-laws on behalf of Kickapoo.

8. The Kickapoo Athletic Director indicated on the MSHSAA Transfer Form that Kickapoo was not previously "aware of the hardship circumstances" as described by Glendale on the Transfer Form.

9. The Kickapoo Athletic Director indicated on the Transfer Form that he did not

believe that “hardship circumstances” made it “NECESSARY” for Plaintiff to transfer to Glendale.

10. The Kickapoo Athletic Director also indicated on the Transfer Form his opinion that the subject transfer was made “for athletic reasons,” and he believed Plaintiff transferred due to “recruitment, inducement or other forms of persuasion/undue influence.”

11. Following submission of the Transfer Form alleging that the transfer was made for “athletic reasons” and “undue influence,” evaluation of the transfer was referred to the appropriate three-member MSHSAA Southwest Investigative Committee (hereinafter “SWIC”), pursuant to MSHSAA By-Law 5.3, for investigation and determination.

12. After conducting its numerous interviews, including Plaintiff and his parents, on May 11, 2023, the SWIC filed its written Investigative Report with MSHSAA finding in part that it was “more likely than not” that Plaintiff could have been influenced to attend Glendale, simply by attending camps/clinics and training hosted at Glendale and through “working with [REDACTED].”

13. Based upon the SWIC Report, on July 19, 2023, MSHSAA Executive Director Dr. Jennifer Rukstad issued an opinion that the transfer of Plaintiff from Kickapoo to Glendale “was due, in part, to undue influence” as prescribed in MSHSAA By-Law 2.6, and Plaintiff became “ineligible to participate in athletics at Glendale.”

14. Prior to the subject transfer:

A. Plaintiff had received private quarterback training from members of the Glendale football coaching staff ([REDACTED] and [REDACTED]). Since middle school, there had been a continuing non-school training relationship between Plaintiff and [REDACTED] during Plaintiff’s freshman year of high school up to and including March 2021.

B. Criticisms of Plaintiff’s alleged experience at Kickapoo were never brought to the attention of the Kickapoo administration by Plaintiff or his parents prior to commencement of the transfer process by Plaintiff.

C. None of the statements made in the MSHSAA transfer form process concerning alleged racial bias at Kickapoo were ever brought to the attention of the Kickapoo administration or counselors by Plaintiff or his parents prior to commencement of the transfer process.

D. No examples of any racial micro-aggressions against Plaintiff at Kickapoo were ever brought to the attention of the Kickapoo administration or counselors by Plaintiff or his parents prior to commencement of the transfer process.

E. In 2.75 years since Plaintiff began attending Kickapoo, this was the FIRST time any such issues had been raised by Plaintiff or his parents with administrators at Kickapoo and was delivered with a MSHSAA transfer form seeking full athletic eligibility initiated by Glendale for Plaintiff.

F. On February 15, 2023, a meeting was held between the parents of Plaintiff and Kickapoo school counselor, [REDACTED]. [REDACTED] stated that the parents mentioned they were concerned about Plaintiff becoming withdrawn and not hanging out with a lot of his Kickapoo friends. [REDACTED] met with Plaintiff who stated that he did not like the Kickapoo environment, but Plaintiff stated nothing about racial bias or racial micro-aggressions by the football coaching staff at Kickapoo.

15. Plaintiff appealed the Executive Director's opinion to the MSHSAA Appeals Committee pursuant to MSHSAA By-Law 5.4.8.

16. At its regularly-scheduled meeting on August 23, 2023, and after affording Plaintiff and his parents a full opportunity to be heard, the MSHSAA Appeals Committee deliberated the matter, and upon motion duly made and seconded, the Appeals Committee voted unanimously 6-0 to deny the appeal to grant unrestricted eligibility to Plaintiff under MSHSAA By-Law 3.10.4.h due to evidence showing that the transfer involved undue influence.

17. Thereafter, Plaintiff appealed the MSHSAA Appeals Committee decision to the MSHSAA Board of Directors pursuant to MSHSAA By-Law 5.4.9.

18. At its regularly-scheduled meeting on September 13-14, 2023, and after affording Plaintiff and his parents a full opportunity to be heard, the MSHSAA Board of Directors (excluding [REDACTED], who did not attend, deliberate or vote) deliberated the matter, and upon motion duly made and seconded, the Board of Directors

voted unanimously 8-0 to deny the appeal to grant unrestricted eligibility to Plaintiff due to evidence showing that the transfer involved undue influence, under by-Law 2.6, involved athletic reasons, under By-Law 3.10.4, and did not qualify as a necessary transfer under the Hardship Transfer exception, By-Law 3.10.4.h. Therefore, Plaintiff would have no eligibility at any level for 365 days from the date of transfer, until March 20, 2024.

19. Respondent's Preliminary Injunction was issued against Relators. Relators were then and are currently members of the duly elected and acting MSHSAA Board of Directors.

20. That Relators are being restrained and being subjected to further action in the Circuit Court of Greene County, Missouri on Respondent's Preliminary Injunction. A copy of the Court's Preliminary Injunction issued on September 22, 2023, will be filed with exhibits.

RELIEF SOUGHT

21. Relators seek an immediate stop order, preliminary and final Order or Writ of this Court in Prohibition and/or Mandamus ordering the Respondent and the Circuit Court of Greene County, Missouri to immediately cease enforcement of the Preliminary Injunction issued on September 22, 2023, and from proceeding further on the claims of Plaintiff until further Order of this Court.

REASONS FOR RELIEF

22. Relators are entitled to the relief sought because, with all due respect to the Court below, the Respondent acted in excess of his jurisdiction and/or abused his discretion in issuing the Preliminary Injunction described above. Moreover, in addition to the above reasons, there are important questions of law decided erroneously by the

Court that will otherwise escape timely and effective review by the Appellate Court, and the Relators as aggrieved parties will suffer hardship and expense as a consequence of the erroneous decision. These reasons for relief are further described in the Suggestions in Support of their Petition for Immediate Stop Order, Preliminary and Final Order in Prohibition and/or Mandamus filed herewith and incorporated herein by reference.

23. Plaintiff's alleged interest in participating in interscholastic football does not as a matter of law constitute irreparable harm warranting injunctive relief against the Relators, and the corresponding harm to others he will displace and burden by his actions is significant.

WHEREFORE, Relators seek an Immediate Stop Order, Preliminary and Final Order or Writ of this Court in Prohibition or, in the alternative, in Mandamus ordering the Respondent and the Circuit Court of Greene County, Missouri to immediately cease enforcement of the Preliminary Injunction issued on September 22, 2023, and proceeding further with Plaintiff's Petition until further Order of this Court, together with such other relief as this Court shall deem just and proper in the premises.

/s/ Mallory V. Mayse
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